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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,010	10/16/2003	Richard D. Breault	C-3151	7400
7590		06/06/2006	EXAMINER	
M. P. Williams		MERCADO, JULIAN A		
210 Main Street		ART UNIT		
Manchester, CT 06040		PAPER NUMBER		
		1745		
DATE MAILED: 06/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Applicati n No.

10/687,010

Applicant(s)

BREAULT, RICHARD D.

Examin r

Julian Mercado

Art Unit

1745

**--The MAILING DATE f this communication app ars on the c ver sheet with th correspondenc address --**

THE REPLY FILED 25 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): the section 102(b) rejection of claims 1-4.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: 1-4.  
Claim(s) objected to: 6, 8.  
Claim(s) rejected: 5 and 7.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached detailed action.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Remarks***

This Office action is responsive to applicant's supplemental after-Final amendment filed on April 25, 2006.

The amendment to claims 1 and 7 and the specification have been entered.

### ***Claim Rejections - 35 USC § 102***

The rejection of claims 1-4 under 35 U.S.C. 102(b) based on Katz et al. (U.S. Pat. 4,548,874) has been withdrawn.

In withdrawing this ground of rejection, the examiner notes applicant's express intent to impart a novel meaning to the claim terms "VIP" and "GFP". Page 5 line 24 et seq. of the specification now reads that the term "VIP is defined herein to consist of a filler material 60 called a 'core' that is encapsulated in a barrier film 61, which may simply be plastic, or may be a plastic film which is sputter coated with thin metal film, or may be aluminum or other metal thin film reinforced by plastic film laminations on each side with the barrier film evacuated to a pressure between 0.001 Torr (0.0013 mbar) and 1.0 Torr (1.3 mbar), and thereafter sealed." Page 7 line 1 et seq. of the specification now reads that the term "...GFP is defined herein as a high molecular weight, low thermal conductivity gas within a hermetic polymer film bag 64 to provide extraordinary thermal insulation" wherein "[w]ithin the essentially hermetic barrier provided by the film 64, a cellular structure 65, called a baffle, is filled with the gas."

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The supplemental after-Final response by applicant has essentially rebutted the ordinary and customary meaning previously applied towards the claimed VIP and GFP, i.e. a vacuum-insulated panel and gas-filled panel, respectively. As the explicit definitions set forth in the immediately preceding paragraph have been provided for the claimed VIP and GFP, these definitions are henceforth deemed to control the interpretation of the terms as used in the claims.

Applicant's assertions have been fully considered and are found consistent with the interpretation of the terms GFP and VIP in a manner determined from the lexicography of these terms as found in the specification.

The rejection of claims 5 and 7 under 35 U.S.C. 102(b) based on Katz et al. (U.S. Pat. 4,548,874) is maintained for the reasons of record, as the alternative recitations in the claims do not requisitely limit the claimed invention to a VIP or GFP. Claim 5 is noted to recite, in the alternative, a hollow chamber containing a vacuum or a low thermal conductivity gas. Claim 7 is noted to recite, in the alternative, a double wall forming a chamber containing, in the alternative, a vacuum or low thermal conductivity gas. See Figure 1 of Katz et al. which is considered to show a hollow or double-wall chamber, i.e. two opposing walls forming a chamber therebetween.

***Allowable Subject Matter***

Claims 1-4 are allowed. The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or suggest the instant invention regarding a gas manifold or insulator panel comprised of either a VIP or GFP, as defined in applicant's specification.

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Claims 6 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 6 and 8 are provisionally allowed for the same reasons set forth for claims 1-4.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to be "P. Ryan", written over a circular stamp.A handwritten signature in black ink, appearing to be "P. Ryan", written over a circular stamp.

**PATRICK JOSEPH RYAN**  
**SUPERVISORY PATENT EXAMINER**